Remarks/Arguments

Claims 1-14 are pending in this application.

The Examiner has rejected claims 1-14 under 35 U.S.C. § 103(a) as obvious in light of U.S. Patent No. 6,256,712 to Challenger et al. ("Challenger et al."). In order to establish the obviousness of a claim, the Examiner must show that all of the claim limitations are taught or suggested by the prior art. M.P.E.P. § 2143.03. All of Applicant's claims, either directly, or through dependency, have recitations that cannot be found in Challenger.

Nowhere does Challenger discuss _each_ of the following claimed limitations: 1) receiving an application protocol request from a client application; 2) having the server respond to this request by sending a portion of the response that changes to the client application; 3) retrieving a part of the response that is static from cache in an operating system kernel; and 4) sending the part that is static to the client application. Rather Challenger only discusses "maintaining updated caches and making consistent updates" to these caches, which are located on a server. _See_ Challenger, column 2, lines 53-55.

All of Applicant's claims recite "receiving from the client application" an "application protocol request" and a "response that can be displayed as a combination of a portion of the response that changes and a part of the response that is static." Challenger, by contrast, does not even mention any application protocol request, let alone discuss responding to application protocol requests. Challenger only discusses combining objects into larger objects as an update mechanism for caches. There is simply no need for an application protocol request from a client in Challenger because Challenger teaches that cached objects on a server are "immediately replaced with fresh objects" when they become stale "rather than deleting stale items from the cache." (See Challenger col. 2, line 66 - col. 3, line 1). Additionally, Challenger does not mention static or dynamic portions of responses or even Web pages, only completely static or completely dynamic Web pages. Applicants also submit that all operations discussed in Challenger occur only on the server and thus, there is no disclosure of receiving a request from a client application.

Applicants note that the Examiner admitted that Challenger does not teach an application protocol request and a response to a request, but simply took official notice that it would be obvious. For example, the Examiner stated that official notice that it is well known that a "web

page is a response by a server to a request." The use of facts beyond what is expressly shown in the cited art must be limited to those which are "capable of such instant and unquestionable demonstration as to defy dispute." M.P.E.P. § 2144.03(A). Challenger is only concerned with maintaining and making consistent updates to **cache on a server** and does not teach the "transfer of web pages," as suggested by the Examiner. Challenger never discloses "receiving from a client application an application protocol request" or "a response" to the application protocol request. It is impossible for the casual mention of a webpage to render this teaching obvious so instantly and unquestionably as to defy dispute. The Examiner is required to cite the best art available to support these contentions. M.P.E.P. § 2144.03(C).

All of Applicant's claims recite the retrieval of the part of the response that is static from a cache disposed in an operating system kernel. Applicant is also at a loss to find this concept disclosed in Challenger. The portions of Challenger cited by the Examiner discuss either a proxy cache or a processor cache, neither one of which resides in a kernel. A proxy cache resides in user space and a processor cache resides inside the processor hardware. Challenger does not even mention a kernel, let alone an in-kernel cache. The Examiner has suggested that a kernel was "inherent" in Challenger because Challenger mentioned a "computer" and all current computers use a kernel. However, even if this was true, Challenger still does not mention the in-kernel cache or the very specific concept of retrieving a part of a response that is static from a cache disposed in an operating system kernel. For a proper rejection, it is not enough for the Examiner to analogize specific claim recitations with portions of the cited reference in a conclusory fashion. The Examiner has suggested that some unwritten "spirit of the design" behind a cited reference can be used to reject a claim over the cited reference under Section 103. However, for a proper rejection under Section 103, the Examiner must demonstrate that all of the claim limitations are taught or suggested by the prior art. M.P.E.P. § 2143.03. The Examiner has failed to meet this burden.

Further, Challenger does not discuss "retrieving the part of the response that is *static*." Challenger is only interested in constantly updating data content that has *changed* and validating WebPages on the server.
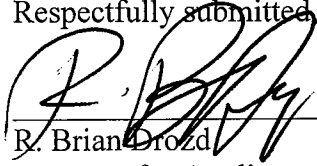
For at least the above reasons, the Examiner has failed to show that every element of any claim is present in the art cited. Applicants believe they have responded to all of the concerns

raised by the Examiner. As the Examiner's rejections have been shown to be in clear error and lack essential elements of a *prima facie* Section 103 rejection, Applicant requests that these claims be allowed to issue.

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Telephone: (919) 286-8000
Facsimile: (919) 286-8199

Respectfully submitted,

R. Brian Drozd
Attorney for Applicants
Registration No. 55,130
Moore & Van Allen PLLC
P.O. Box 13706
Research Triangle Park, NC 27709